

ADMINISTRATIVE PANEL DECISION

Brocacef Groep N.V. v. drake Amsiik
Case No. DNL2025-0037

1. The Parties

Complainant is Brocacef Groep N.V., Netherlands (Kingdom of the) ("the Netherlands"), represented by Clairfort Lawyers, the Netherlands.

The registrant of the disputed domain name is drake Amsiik, Germany ("Respondent").

2. The Domain Name and Registrar

The disputed domain name <benuapotheeonline.nl> (the "Domain Name") is registered with SIDN through Realtime Register.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 13, 2025. On November 13, 2025, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Name.

On November 14, 2025, SIDN transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named respondent and contact information in the Complaint.

The Center sent an email communication to Complainant on November 17, 2025, providing the information disclosed by SIDN, and inviting Complainant to amend the Complaint in this light. Complainant filed an amended Complaint on November 19, 2025.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the "Regulations").

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified Respondent of the Complaint and the proceedings commenced on November 20, 2025. In accordance with the Regulations, article 7.1, the due date for Response was December 10, 2025. The Center did not receive any response. Accordingly, the Center notified Respondent's default on December 11, 2025.

The Center appointed Dinant T. L. Oosterbaan as the panelist in this matter on December 17, 2025. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

Complainant is a Dutch company active in the medical sector. The company goes back over 200 years. Complainant currently employs over 5,400 people. It is now part of the German PHOENIX group. Complainant is the director and (indirect) sole shareholder of BENU Nederland B.V. BENU Nederland is the largest pharmacy chain in the Netherlands with 345 BENU pharmacies with more than 3.6 million customers. Non-prescription products are also sold online.

Complainant owns Benelux trademark registration No.1401074, for BENU IEDER MENS ANDERE ZORG (wordmark), registered on November 12, 2019.

The shareholder of Complainant, PHOENIX Pharma SE ("Phoenix") is the owner of Benelux trademark registration No. 902395 for BENU (wordmark) registered on June 27, 2011. Complainant has provided written evidence that Phoenix has authorized Complainant to enforce this trademark in these proceedings.

Complainant also owns and communicates on the Internet through the domain names <benu.nl> and <benuapotheek.nl>.

The Domain Name was registered on July 25, 2025. The Domain Name at the time of the decision does not resolve to an active website. Previously, the Domain Name resolved to an online pharmacy pretending to be the BENU pharmacy online and selling various prescription and non-prescription drugs.

The trademark registrations of Complainant were issued prior to the registration of the Domain Name.

5. Parties' Contentions

A. Complainant

According to Complainant, the Domain Name is confusingly similar to its trademark registrations for BENU as it includes the entirety of the BENU trademark (which it is entitled by the owner to enforce) and the distinctive element of the BENU IEDER MENS ANDERE ZORG (translated: "Benu every person different care") trademark. Complainant submits that the second element of the Domain Name ("apotheek") is merely descriptive (meaning "pharmacy" in Dutch) and the third element of the Domain Name ("online") is also generic and descriptive. According to Complainant, it is an established principle that the mere addition of a generic or descriptive term does not create a different trademark in which Respondent has rights and cannot be considered as sufficient to avoid confusion between the Domain Name and the trademarks.

Complainant submits that Respondent has no rights or legitimate interests in respect of the Domain Name. Complainant asserts that Respondent is not affiliated in any way with Complainant and Complainant (or any of its group companies) has never authorized Respondent to use its trademarks. There are no indications that Respondent has ever been commonly known by the Domain Name and there is no evidence that Respondent used or prepared to use the Domain Name in connection with a bona fide offering of goods or services. According to Complainant, the previous website under the Domain Name did not indicate in any way that it is not exploited by BENU, nor did it make clear by whom the website is exploited. The website also offered drugs that can only be purchased with a doctor's prescription. Examples of prescription only products offered include diabetes medication (Mounjaro, Wegovy), opioids (Oxicodon) and antidepressants (Oxazepam). The website gave the impression that the products can be ordered on the website without a prescription.

Complainant asserts that the Domain Name has been registered and is being used in bad faith. There is no doubt that Respondent was well-aware of the trademarks of Complainant when the Respondent registered the Domain Name. The word BENU has no meaning in Dutch (or any other language, as far as Complainant is aware) so the sole reason for registering the Domain Name was in opportunistic bad faith, to take advantage of the trademarks and the reputation of BENU in the Netherlands. Respondent wanted Internet users to believe that the website was exploited by BENU itself. According to Complainant, all this was done by Respondent with a view to commercial gain, in order to persuade Internet users to transfer money to Respondent to purchase drugs (e.g. diabetes or antidepressants) discreetly online, without a doctor's prescription. Complainant submits that the website at the Domain Name has since been deactivated as a result of a notice-and-takedown request on the grounds of public health risks. However, Complainant retains a right and interest in the transfer of the Domain Name and Complainant wishes to prevent Respondent from making unlawful use of the Domain Name again.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Based on article 2.1 of the Regulations, a claim to transfer a domain name must meet three cumulative conditions:

- a. the domain name is identical or confusingly similar to a trademark, trade name or geographical indication protected under Dutch law in which the complainant has rights, or other name mentioned in article 2.1(a) under II of the Regulations;
- b. the respondent has no rights to or legitimate interests in the domain name; and
- c. the domain name has been registered or is being used in bad faith.

As Respondent has not filed a Response, the Panel shall rule based on the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

A. Identical or Confusingly Similar

It is well accepted that the first element of the Regulations functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").¹

Based on the available record the Panel finds that Complainant has shown rights in respect of trademarks applicable in the Netherlands for purposes of the Regulations. See also [WIPO Overview 3.0](#), section 1.2.1

The Panel finds that the entirety of the BENU trademark and the dominant element of the BENU IEDER MENS ANDERE ZORG trademark are reproduced and recognizable in the Domain Name. The only difference is the addition of the words "apotheek" ("pharmacy" in Dutch) and "online". Previous panels under

¹In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

the Regulations have found that a domain name is identical or confusingly similar to a complainant's trademark where the domain name incorporates the entirety of such trademark or where a dominant feature of the relevant mark is recognizable in the domain name. See also section 1.7 of [WIPO Overview 3.0](#).

The country code Top Level Domain ("ccTLD") ".nl" may be disregarded for purposes of article 2.1(a) of the Regulations, see *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#).

The Panel finds that the Domain Name is confusingly similar to Complainant's trademarks for purposes of the Regulations.

Complainant has satisfied the requirements of Article 2.1(a) of the Regulations.

B. Rights or Legitimate Interests

As stated in section 2.1 of [WIPO Overview 3.0](#), "while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element"

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Regulations or otherwise.

There is no evidence that Respondent is affiliated in any way with Complainant and Complainant (or any of its group companies) has never authorized Respondent to use its trademarks. There is also no indication that Respondent is commonly known by the Domain Name.

The Domain Name at the time of the Decision does not resolve to an active website.

Based on the undisputed submission and evidence provided by Complainant, the Domain Name previously resolved to a website in the Dutch language which appeared to illegally sell drugs online without a prescription while such drugs - according to applicable pharmaceutical laws in the Netherlands - can only be purchased with a doctor's prescription, such as diabetes medication (Mounjaro, Wegovy), opioids (Oxycodon) and antidepressants (Oxazepam). Panels have held that the use of a domain name for illegal or fraudulent activity, here as claimed impersonation/passing off and the illegal sale of prescription drugs, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel does not consider such use a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Name.

The Panel also notes the composition of the Domain Name, which carries a risk of implied affiliation with Complainant.

The Panel finds that Respondent has no rights to or legitimate interests in the Domain Name and that Complainant has satisfied the requirements of Article 2.1(b) of the Regulations.

C. Registered or Used in Bad Faith

Noting the overall circumstances of this case, the Panel finds it highly likely that Respondent knew, and further finds that Respondent in any event should have known, Complainant's trademarks at the time of

registration, especially in view of the fact that the Domain Name contains the entirety of the distinctive BENU trademark.

The Panel notes that the Domain Name previously resolved to a website which incorporated Complainant's trademark in its entirety, which copies without authorization the distinctive and invented BENU trademark of Complainant, which indicates, in the circumstances of this case, that Respondent registered and used the Domain Name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith. The Panel adds that the use the Domain Name for illegitimate or illegal activity, such as the illegal online sale of prescription only drugs, is manifestly considered evidence of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Panel further notes that the Domain Name at the time of the Decision does not resolve to an active website. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Noting (i) the degree of distinctiveness and reputation of Complainant's BENU mark in the Netherlands, (ii) the failure of Respondent to submit a response or to provide any evidence of actual or contemplated bona fide use, and (iii) the implausibility of any bona fide use to which the inherently misleading Domain Name may be put, the Panel finds that Respondent possibly registered the Domain Name with the intention to unfairly attract Internet users to its Domain Name.

The Panel also notes that it is likely that Respondent provided false contact information as a street address in Berlin, Germany is provided with a wrong postal code and a telephone number with the country code of Cameroon. This is an additional indication of the bad faith of Respondent.

The Panel finally notes that a highly similar case with some identical webpages was decided against a different respondent. See *Brocacef Groep N.V. v. Brondon Niba*, WIPO Case No. [D2025-1106](#), <benuapotheeonline.com>.

The Panel finds that the Domain Name has been registered and is being used in bad faith and that Complainant has satisfied the requirements of Article 2.1(c) of the Regulations.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Name, <benuapotheeonline.nl> be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Panelist

Date: December 26, 2025